

National Automatic Sprinklers, Inc. and Road Sprinklers, Fitters Union Local No. 669, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL-CIO. Cases 17-CA-14651 and 17-CA-14723

May 8, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS OVIATT
AND RAUDABAUGH

On November 6, 1990, the National Labor Relations Board adopted the decision and Order of an administrative law judge, inter alia, ordering National Automatic Sprinklers, Inc. to make whole employees John Bateman, Richard Bateman, Billy Good, Charles Nelson, the Union, and the various Funds provided for in the collective-bargaining agreement for their losses resulting from Respondent's failure to honor the terms of that agreement. The Board's Order was enforced in full by the United States Court of Appeals for the Tenth Circuit on September 30, 1991.

A controversy having arisen over the amounts due the employees, the Union, and the Funds under the Board's Order, the Regional Director for Region 17 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated March 12, 1992, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by March 27, 1992, summary judgment would be sought. The Respondent filed no answer.¹

¹In her Motion for Summary Judgment, counsel for the General Counsel avers that on November 14, 1990, counsel for the Respondent formally withdrew from the case and requested "that all future correspondence and other mailings regarding this matter be directed to Mr. John Keating." The compliance specification was served by certified mail on Keating and on Neil Landerman who the General Counsel believes is a partial owner of the Respondent. A copy of the specification was served by regular mail on the Respondent at its last known address. This letter was returned by the United States Postal Service marked "FOE" (forwarding orders expired).

Counsel for the General Counsel sent her letter of March 12 to Keating, Landerman, and to the Respondent at its last known address. The Respondent's copy was returned marked "FOE." Keating telephoned counsel for the General Counsel advising that he was an investor in the Respondent and did not intend to file an answer. Keating thereafter confirmed that conversation in a letter to counsel for the General Counsel in which he further stated that he had no records of the business nor was he "ever involved in the daily operations of this Corporation."

On April 6, 1992, the General Counsel filed with the Board a Motion to Transfer Proceeding to the Board and for Summary Judgment, with exhibits attached. On April 7, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net back-pay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

ORDER

The National Labor Relations Board orders that the Respondent, National Automatic Sprinklers, Inc., Oklahoma City, Oklahoma, its officers, agents, successors, and assigns, shall make whole the individuals, the Union, and the Funds named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons*

Under the Board's Rules service of the various papers of the Board, such as the compliance specification here, the complaint is accomplished by deposit in the mail to the last known address of a respondent. This was done here and the Respondent's failure to provide for receiving appropriate service cannot serve to defeat the purposes of the Act. See, e.g., *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986). Accordingly, in the circumstances here, we find that the compliance specification was served on Respondent.

for the Retarded, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws.

Richard Bateman	\$18,609.39
John Bateman	17,443.80
Charles Nelson	11,458.19
Billy Good	6,693.43

National Automatic Sprinkler Industry Welfare Fund	8,503.20
National Automatic Sprinkler Industry Pension Fund	6,195.80
NASI—Local 669 Industry Education Fund	363.20
Union Dues	1,549.19